XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(35)

मामला क्रमांक G.A. 5 सन् 2002

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

APPELLANT:
(In Jail Custody)

Rajesh Satnami,
S/o Fattechand Satnami,
aged about 20 years,
Occupation Labourer,
R/o Village Rohra, P.S. Bhatapara,
Tah. and Distt. Raipur, Chhattisgarh
At and Post Village Baronda,
P.S. Dharsiwa, Distt. Raipur, C.G.

- Versus -

RESPONDENT:

State of Chhattisgarh,
Through P.S. Dharsiwa,
Distt. Raipur, Chhattisgarh.

{Criminal appeal under Section 374 (2) Cr.P.C.}

Division Bench:

Hon'ble Mr. L.C. Bhadoo and
Hon'ble Mr. Sunil Kumar Sinha, JJ.

27-9-2007

Mr. V.P. Gupta, counsel for the appellant.

Mrs. Anju Ahuja, Deputy Govt. Advocate for the State/respondent.

Oral judgment dictated on Dais.

Sunil Kumar Sinha, J: -

This appeal is directed against the judgment of conviction and order of sentence dated 6th December, 2001 passed by the Special Judge, NDPS, Raipur in Sessions Trial No.413/2000, whereby the appellant was convicted under Section 302 of the I.P.C. and sentenced to undergo R.I. for life and pay a fine of Rs.1,000/-, in default of payment of fine to further undergo R.I. for two months.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(36)

मामला क्रमांक G.A.5/ सन् 2002

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Case of the prosecution is that on 9-10-2000 at about 10.30 a.m. the deceased namely, Udeychand Satnami and his wife namely, Ghasnin Bai were present in the house. The accused/appellant is the son of Ghasnin Bai from her earlier husband. Since one month prior to the date of incident, the appellant was also residing in the house of deceased Udeychand Satnami & his wife Ghasnin Bai who was the mother of the appellant. Allegations are that at that time some altercation was going on between Udeychand & Ghasnin Bai, hearing this, the accused/appellant all of a sudden came over there along with one spade in his hand and assaulted the deceased by the spade. The incident was witnessed by two eyewitnesses namely, Kanhaiya @ Bhola (PW-6) & Sadhan Bai (PW-7). Kanhaiya @ Bhola (PW-6) narrated the story to Dukalu (PW-1) who telephoned to the Police Station on which the Investigating Officer came to the village. Merg intimation was recorded under Ex.P-15. Dehati Nalishi was recorded under Ex.P-10 based on which the F.I.R. was registered under Ex.P-14. The Investigating Officer gave notice Ex.P-1 to the Panchas and prepared inquest on the body of the deceased under Ex.P-2. The dead body was sent for post-mortem examination to Mekahara, Raipur. Clothes (full shirt & full pant) of the accused/appellant were seized under Ex.P-4. Weapon of offence i.e. spade (Rapa) was seized under Ex.P-3 from the Varandah of the house of the deceased. Blood stained soil and plain soil were seized from the place of occurrence under Ex.P-5. Site plan was prepared by the Patwari under Ex.P-6.	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(37)

मामला क्रमांक G.A. 5/ सन् 2002

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Dr. Sanjay Kumar Dadu (PW-4) conducted post-mortem examination on the body of the deceased and prepared his report Ex.P-8. He found following injuries on the body of the deceased: -

1. One lacerated wound at the left side of the head admeasuring 5 cms. x 1.5 cms. bone deep;
2. One lacerated wound on the head situated at a distance of 1 cm. from injury No.1 in the size of 4 cms. x 0.5 cm. bone deep;
3. One lacerated wound on the right ear obliquely placed extending from tragus to pinna admeasuring 5 cms.;
4. One lacerated wound just above 3 cms. from injury No.3 in the size of 1.5 cms. x 0.2 cm. obliquely placed bone deep;
5. One abrasion on the backside of right shoulder admeasuring 5 cms. x 1 cm.;
6. One abrasion on the left shoulder admeasuring 1.5 cms. x 0.2 cm.; and
7. One abrasion at 2 cms. right angle of mandible on the right side of neck in the size of 1.5 cms. margins irregular.

On internal examination, huge quantity of blood was found beneath the skin on the head. The right tempora-parietal bone was fractured into many pieces in 6 cms. diameter, pieces of bone had pierced inside, there was fracture of left terian and there was also a fracture of left orbital. There was subdural haemorrhage all over the brain. According to his opinion, death was due to shock and haemorrhage as a result of head injuries. Injuries were caused by hard, blunt and heavy object. It was homicidal in nature.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

After usual investigation, charge sheet was filed in the Court of Judicial Magistrate, First Class, Raipur, who in turn committed the case to the Court of Sessions Judge, Raipur, from where, the matter was received on transfer by the Special Judge, Raipur for trial, who conducted the trial and convicted and sentenced the accused/appellant, as aforementioned.

Conviction of the appellant is based upon the testimonies of two witnesses namely, Kanhaiya @ Bhola (PW-6) & Sadhan Bai (PW-7).

Learned counsel for the appellant argues that both the eyewitnesses are not reliable witnesses, therefore, conviction based upon their testimonies cannot be sustained.

We have heard Mr. V.P. Gupta, learned counsel for the appellant and Mrs. Anju Ahuja, learned Deputy Govt. Advocate for the State/respondent.

Learned counsel for the appellant has not disputed the homicidal death of deceased Udeychand Satnami. Moreover, it has come on the evidence of Kanhaiya @ Bhola (PW-6) as also Sadhan Bai (PW-7) that the deceased was assaulted by the accused/appellant with a Rapa who gave repeated blows on the deceased. Their evidence is supported by the evidence of Dr. Sanjay Kumar Dadu (PW-4), who has conducted post-mortem examination of the deceased and who found as many as seven external injuries on the body of the deceased. He opined that the deceased died due to shock and haemorrhage on account of the above injuries caused to him and the mode of death was homicidal in nature. Therefore, it is established that the death of deceased Udeychand Satnami was homicidal in nature.

मामला क्रमांक ..... सन् 2002

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

So far as involvement of the accused/appellant in the crime in question is concerned, as stated earlier, learned counsel for the appellant has stressed upon reliability of the two eyewitnesses namely, Kanhaiya @ Bhola (PW-6) & Sadhan Bai (PW-7).

We have carefully considered the evidence of these witnesses.

Kanhaiya @ Bhola (PW-6) has stated in his evidence that the appellant was step-son of deceased Udeychand Satnami. House of Udeychand Satnami is situated near the house of Narad Satnami. At the relevant time, he was going to the house of Narad Satnami, on the way when he reached near the house of Udeychand Satnami, he saw that Udeychand Satnami and his wife namely, Ghasnin Bai were talking with each other and some altercation was going on between them. At the same time, all of a sudden, accused/appellant Rajesh came out from his house along with a Rapa in his hands and gave three fatal blows on the head of the deceased. The deceased died on account of the injuries received by the said blows. Seeing this, he informed Kotwar, Up-Sarpanch Mansaram & Sukhwatin Bai.

Sadhan Bai (PW-7) has stated in her evidence that Rajesh is son of Ghasnin Bai from her earlier husband. At the relevant time, she was going to the tank. House of Udeychand Satnami is situated on the way to the tank. She deposed that she saw that Udeychand Satnami has fell down at the door in his house and his son namely, accused Rajesh assaulted with Rapa on his head. She saw that blood started coming out from the injury and thereafter, she went away form that place.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर (MD)

मामला क्रमांक G.A.5/ सन् 2002

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

In the entire cross-examination of these two witnesses, nothing material has been brought on record by the defence to hold that either these witnesses are concocted witnesses or they are the witnesses who had in fact not witnessed the occurrence. Even no material is brought on record to assail their testimonies in any manner so as to hold that they are not narrating the actual version of the occurrence which they have witnessed.

Besides the above ocular evidence, other circumstance is about the seizure of the weapon of offence. Weapon of offence Rapa was seized from the place of occurrence and seizure has been supported by Dukalu (PW-1) before whom such seizure was made by the Police Officer. Seized articles were sent to Forensic Science Laboratory, Raipur, from where report Ex.P-16 has been received. According to the said report, blood stains were found on Rapa as well as shirt & full pant (seized from the accused) as also on the blood stained soil seized form the place of occurrence and Cheddi of the deceased.

In the light of above ocular and circumstantial evidence, we do not find any infirmity when the trial Court has recorded the finding of conviction against the appellant based on these materials on record. Evidence against the appellant is cogent, clinching and reliable, therefore, conviction based on such evidence is based on sound reasonings.

In the result, the appeal fails same is liable to be dismissed and it is accordingly, dismissed.

Sd/-
L.C.BHADOO
Judge

Sd/-
Sunil Kumar Sinha
Judge

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